IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 5548 OF 2002

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

HONOURABLE MR.JUSTICE K.M.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SIEMENS LIMITED - Petitioner(s)

Versus

COMMISSIONER OF SALES TAX, GUJARAT STATE & ORS. - Respondent(s)

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Appearance :
MR. K.H. KAJI for Petitioner(s).
MR. SIRAJ GHORI, AGP for Respondent(s) : 1 – 3.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG
and
HONOURABLE MR.JUSTICE K.M.MEHTA

Date : 21/09/2005

ORAL JUDGMENT
(Per : HONOURABLE MR.JUSTICE R.S.GARG)

1. The present Writ Application has been filed

against Show Cause Notice No.STO/Ward-14, Surat/show-cause/2002-03/B 292 dated 16th April, 2002 issued by the Sales Tax Officer-1, Ward 14, Surat, wherein the concerned Sales Tax Officer has informed the petitioner that looking to the facts and legality of the works contract transaction, it has come to the notice of the Sales Tax Officer that both the contractors i.e Siemens AG and Siemens India Limited, have not fulfilled their sales tax liability in the State of Gujarat as per the works contract provisions of the Gujarat Sales Act, 1969. After detailing reasons for recording such tentative findings, the petitioner was required to show cause and remain present before the Sales Tax Officer with necessary explanation. The petitioner, being aggrieved by the said show cause notice, is before this Court.

2. Though various contentions were raised in the Writ Application, but, in light of our earlier order passed between the same parties on 19th September, 2005 in an identical situation in Special Civil Application No.18988 of 2005, we hereby dispose of the Writ Application directing the petitioner to file its reply to the show cause notice within two weeks from today. We further direct the Sales Tax Officer to decide the objections raised by the petitioner pertaining to the limitation and the jurisdiction of the authority by a speaking order. Till the final disposal of the objections by the petitioner, the Sales Tax Officer shall not proceed with the reassessment proceedings for which notices were issued during

the pendency of this Writ Application. Rule is discharged. Interim relief, if any, shall stand vacated. No order as to costs.

[***R.S.Garg, J.***]

[***K.M. Mehta, J.***]

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